REMARKS

I. INTRODUCTION

Claims 1-8 and 12-21 are pending in this present application. Claims 9-11 are withdrawn from consideration and claims 1-8 and 12-21 stand rejected in the present application. In the June 5, 2009 Final Office Action, the Examiner:

1. Rejected claims 1-3 and 5 under 35 U.S.C. § 102(b) as being anticipated by *Ohler et al.* (U.S. Patent No. 6,424,910); and

2. Rejected claims 4, 6-8 and 12-21 under 35 U.S.C. § 103(a) as being unpatentable over *Ohler et al.* (U.S. Patent No. 6,424,910) in view of *Saiki* (U.S. Patent No. 7,058,507).

Applicant has amended claims 2, 5, 13, 19, and 20 to correct antecedent basis informalities (claims 2 and 13) and certain minor typographical and grammatical errors or inconsistencies (claims 5, 19, and 20). No new matter has been introduced by these amendments. As to the rejections under 35 U.S.C. §§ 102(b) and 103(a), Applicant respectfully traverses.

II. REJECTION OF CLAIMS 1-3, 5, AND 12 UNDER 35 U.S.C. § 102(b)

Claims 1-3, 5, and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Ohler et al.* (U.S. Patent No. 6,424,910). The Examiner in the November 24, 2009, Non-Final Office Action, stated that:

> As to claim 1, receiving a first set of data by a first navigation device (col. 10, lines 8-10), the first set of data including first criteria for selecting a rendezvous position (Col. 12, lines 44-67, and col. 13, lines 12-16); receiving a second set of data from a second navigation device by the first navigation device (col. 11, lines 19-20), the second set of data including data representing a current position of the second navigation device, and second criteria for selecting a rendezvous position (Col. 12, lines 44-67 and col. 13, lines 12-16); identifying a rendezvous position based on the first criteria and the second criteria, where the rendezvous position is used for establishing a first route for the first navigation device to the rendezvous position and for establishing a second route for the second navigation device to the rendezvous position (Figures 2-4); notifying the first navigation device when the

> identified rendezvous position and the first route violated the first criteria; and notifying the second navigation device when the identified rendezvous position and the second route violates the second criteria. (Col. 13, lines 1-8)

Applicant respectfully submits that the Office action has erroneously described the teachings of *Ohler et al.* in an attempt to create a non-existent similarity to the recited claim language. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987), MPEP § 2131. "We thus hold that unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102." *Net MoneyIN v. VeriSign, Inc.*, 545 F.3d 1359, 1371, 88 U.S.P.Q. 1751 (Fed. Cir. 2008).

Ohler et al., in general, relates to a navigation system whereby navigation-related services are provided for plural users who have related needs, such as identifying one or more places of a specified type that are convenient for two users to travel to and providing the users with instructions for traveling to a selected place (col. 2: lines 12-22). *Ohler et al.* discloses several embodiments and examples of operation for this navigation system. In the Embodiment with Navigation Services Provider, a navigation services provider **100** (FIG. **1**) provides navigation-related services for users located in a geographic area **102.** Col. 2: lines 45-46. The navigation services provider **100** is accessible over a network **103** (col. 2: lines 55-57) and includes a server **110** and software applications **130** that include a place search application **134** (col. 2: line 66 through col. 3: line 6). The place search application **134** uses the data in a geographic database 140 to identify points of interest based upon search criteria (col. 3: lines 37-39).

In the first example of operation, two users 146 and 148 want to meet at a common location, and one of the users communicates with the navigation services provider **100** (col. 4: lines 19-27). In this case, the place should be approximately equidistant from both users and in order to find places of an indicated type that are approximately equidistant from both users, the place search application **134** determines a search area (col. 4: lines 42-50).

Once the search area **168** (FIG. **1**) is determined, the navigation services provider **100** searches for places of the type specified by the user that are located within the defined search area **168**. Using the geographic database **140**, the place search application 134 finds all the places (labeled **175**, **177**, and **179** in FIG. 1) of the type specified by the user that are located within the search area **168** (col. 5: lines 55-57). If the place search application **134** does not find any places of the specified type located in the search area **168**, the size of the search area may be expanded. If the place search application **134** still cannot find any places of the specified type located in the search area **168**, the user is informed that the search was unsuccessful (col. 5: lines 41-47).

Example 2 is similar with the exception that the place search application **134** finds one or more places of the specified type that take approximately the same driving time for both users to reach, rather than places that are equidistant for each user (col. 6: lines 25-27). In example 3, restrictions may be placed on the selection of a meeting place (col. 7: lines 35-38), and in example 4, the navigation services provider can provide one or both users with route guidance for traveling to the selected place (col. 2: lines 52-54). Example 5 is an example of an embodiment wherein either or both users **146** and **148** may have navigation systems **360** and **362** (FIG. **5**), respectively, which may be in-vehicle navigation systems (col. 8: lines 17-21). In general, the navigation services provider **100** operates in conjunction with the navigation systems **360** and **362** to provide route calculation and guidance to the users **146** and **148**, respectively (col. 2: lines 55-57).

Example 6 is an embodiment with user navigation systems as shown in FIG. **6**. Because the navigation system **460** in the embodiment in FIG. **6** includes the hardware and software for providing navigation-related services to the user **146**, the user **146** obtains these services from his/her local navigation system **460** instead of obtaining these services from a remotely located navigation services provider, as in the embodiments of FIGS. **1** and **5** (col. 2: lines 26-33). As noted above, the November 24, 2009, Non-Final Office Action cites to these portions of *Ohler et al.* as disclosing the limitations of claim **1**.

First, *Ohler et al.* does not disclose a rendezvous position as recited in claim **1**. A "rendezvous position" is basically a common point on a route for a first navigation device and a route for a second navigation device (*see* specification, page 2, 4th paragraph, lines 5-12). Thus,

the claimed invention may be utilized for applications such as "hanggliding, paragliding, hiking, biking, small airplanes, boats, and the like" (*see* specification, page 5, 1st paragraph, lines 7-9).

In contrast, *Ohler et al.* does not disclose "identifying a rendezvous position based on the first criteria and the second criteria," as claimed by the Office Action, which cites FIGs. 2 and 4 and col. 12, line 44 through col. 13, line 8 of *Ohler et al.* As described above, what *Ohler et al.* discloses is using the place search application **134** to find any places of a specified type located in the search area **168**. In order to use the place search functions on the local navigation system **460** (FIG. **6**), the users first decide on a type of place at which to meet, as in the previous embodiments. After the users decide on a type of place, one of the users (*e.g.*, the user **146**) uses the place search functions on his/her navigation system **460** to find a convenient place for both users to meet. (Col. 10: lines 60-67).

Thus, the embodiment cited in the Office action is the same as in the other 5 embodiments, and none of these disclose or teach identifying a rendezvous position determined by first and second criteria. In other words, *Ohler et al.* teaches finding a specified type of location, if one can be found within a defined geographic area, but does not disclose or teach identifying a rendezvous position that is common to routes for a first and a second navigation device.

As for notifying the first navigation device when an identified rendezvous position and a first route violates the first criteria, or notifying the second navigation device when the identified rendezvous position and the second route violates the second criteria, this also is not disclosed in *Ohler et al.* That is to say, *Ohler et al.* selects a common meeting place from a database based on certain criteria but does not calculate a first route to a rendezvous position and a second route to the rendezvous position using first and second criteria, respectively, and thus has no need to notify a navigation device of a violation of its own criteria. In other words, the rendezvous position of the claimed invention may be recalculated based on changes in the criteria, which affects the routes of the navigation devices, while *Ohler et al.* does not utilize routes of its navigation devices to identify a rendezvous position.

Accordingly, Applicant submits that independent claim 1 is in condition for allowance because the *Ohler et al.* reference fails to describe or teach all of Applicant's claim limitations of

independent claim 1. Claims 2-8 and 12 that depend from allowable claim 1 are also in condition for allowance because of their dependency from an allowable claim.

III. REJECTION OF CLAIMS 4, 6-8, AND 12-21 UNDER 35 U.S.C. § 103(a)

Claims 4, 6-8, and 12-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ohler et al.* (U.S. Patent No. 6,424,910) in view of *Saiki* (U.S. Patent No. 7,058,507). For the reasons explained above, the *Ohler et al.* patent does not teach or describe all of the elements of independent claim 1 and claim 1 is in condition for allowance. Specifically, *Ohler et al.* does not teach "a calculation unit configured to calculate, upon receipt of the confirmation signal by the second receiving section, a rendezvous position for the first navigation device and the external device based on first signal and the external position," as claimed by the Office action at page 5.

The Office action, at page 6, also states as follows:

> Saiki discloses:
>
> As to claim 13, a calculation unit configured to calculate, upon receipt of the confirmation signal by the second receiving section, a rendezvous position for the first navigation device and the external device based on first signal and the external position data (Figure 3), where the rendezvous position is provided to the navigation device for approval (Figure 4); and a transmission section configured to encode the rendezvous position in an output signal transmitted via the communications network to the external device when the rendezvous position is approved (Figure 4 and Col. 10 line 53 to Col. 11 line 21); where the rendezvous position is recalculated when the rendezvous position is not approved (Figure 4 and Col. 10 line 53 to Col. 11 line 21).

First, *Saiki* does not disclose a rendezvous position as recited in claim 19 because *Saiki* discloses a navigation system that determines a meeting place selected from a large number of meeting places registered or stored in memory in advance (*abstract* and col. 4: line 67 through col. 5: line 12).

Second, *Saiki* does not disclose the limitation of recalculating the rendezvous position when the rendezvous position is not approved by the navigation device, as it is claimed in claim 19. This allows, as an example, a navigation device, *i.e.*, a user, to reject a proposed rendezvous position and initiate a recalculation based on different criteria and parameters (*see* specification,

page 14, 5th paragraph, lines 11-14). The Office action states that this is disclosed in *Saiki* at FIG. 4 and col. 10: line 53 through col. 11: line 21. In *Saiki*, however, the master navigation device receives information transmitted by person **103** (FIG. 5), then determines whether or not it is necessary to change the meeting place. Also, if a meeting place selected manually or automatically by the master is unfavorable for one of the slaves, the one slave transmits its desirable meeting place to the master and a change of the meeting place depends on the master's choice (col. 10: lines 63-67).

In contrast, claim 13 recites a transmission section encoding the rendezvous position in an output signal transmitted via the communications network to an external device when the rendezvous position has been approved by the navigation device, which has received the rendezvous position for approval, and recalculating the rendezvous position when the rendezvous position when it does approve the rendezvous position. In other words, a recalculation may occur before the transmission to the external device, which is not disclosed in *Saiki*.

In summary, the combination of *Ohler et al.* and *Saiki* does not teach or disclose the limitations that the Office action claims it does. Specifically, the combination does not disclose or teach (i) calculating a rendezvous position for a navigation device and an external device; and (ii) recalculating the rendezvous position when the rendezvous position is not approved by the navigation device. Accordingly, Applicant believes that independent claim 13 is in condition for allowance, as well as dependent claims 14-18, each of which are dependent from independent claim 13, and therefore Applicant respectfully requests that the Examiner withdraw the rejections of claims 13-18 under 35 U.S.C. § 103(a).

Independent claim 19 recites a first and second navigation device according to claim 18, which depends from allowable claim 13, and therefore, Applicant respectfully submits that claims 19, as well as dependent claims 20 and 21 are patentable over the cited references.

Additionally, Applicant does not otherwise concede the correctness of the Office action rejections with respect to any of the dependent claims referred to above and Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is

believed to be unnecessary at this time in view of the basic differences discussed above with respect to the independent claims.

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CONCLUSION

Favorable consideration is respectfully requested in view of the foregoing amendments and remarks.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to our Deposit Account No. 50-2542.

Respectfully submitted,

Dated: 2/24/10

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CONCLUSION

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